

**REMARKS**

Claims 1-6, 8-19, 21-24, and 28-35 are pending. Reconsideration of the present application is respectfully requested.

**I. The Claims Define Allowable Subject Matter**

The Office Action rejects claims 1-6, 8-16, and 33-35 under 35 U.S.C. §103(a) over U.S. Patent No. 5,456,379 to Krupa et al. (Krupa) in view of U.S. Patent No. 3,986,299 to Merzweiler, claims 17-19, 21-24, and 28-31 under 35 U.S.C. §103(a) over Krupa in view of U.S. Patent No. 6,910,599 to Tucker et al. (Tucker), and claim 32 under 35 U.S.C. §103(a) over Krupa, Tucker, and in further view of U.S. Patent No. 5,409,126 to DeMars. The Office Action does not list claim 33 as being rejected under 35 U.S.C. §103(a) over Krupa and Merzweiler, but language regarding this claim is found on pages 5-7 under the rejection heading. Applicants assume that the Examiner meant to reject claim 33 as well. These rejections are respectfully traversed.

**A. The Obviousness Rejection Over Krupa and Merzweiler**

As admitted by the Office Action, Krupa fails to disclose the coupling between standoff members being a snap coupling. To make up for the deficiencies of Krupa, the Office Action cites to Merzweiler. Merzweiler is used to show a teaching of snap couplings. Applicants respectfully assert that the combination of Krupa and Merzweiler is improper.

There is no motivation for providing the container of Krupa with the snap coupling of Merzweiler. The container in Krupa locks a tray 20 to a cover 100 around the perimeter at the corners and front of the container (*see* Fig. 1). And Merzweiler locks at the partitions 14, 15. These features are both designed to provide a secure interface. But the combination of the two features are not disclosed.

The invention found in claims 1, 9, and 33 includes the combination of (a) the securely coupled upper lid portion and the lower tray portion, along with (b) the standoffs having a snap coupling. While the locking feature of the upper lid portion and the lower tray portion, and the locking feature of the standoff snap coupling provide a similar function, if used alone, the combination of the two add another function, which is not found in the applied references. The combination of the two features (1) minimize movement (i.e., lateral movement) of the upper lid portion relative to the lower tray portion and (2) provide a secure interface. This also prevents inadvertent separation of the upper lid portion from the lower tray portion. Claims 1, 9, and 33 recite these features.

For example, Velcro<sup>®</sup> hook and loop fasteners can hold two boards together when placed along the center, but will not provide good support for side-to-side motion or against a twisting motion. Likewise, two boards can be held together by clamps, yet will slip apart if a force is applied in a lateral direction. Hook and loop fasteners and clamps may be known to provide a secure interface. Alone, the problem is not solved. The question is whether one of ordinary skill in the art would have been motivated to combine the two references to achieve the claimed invention.

Applicants respectfully assert that one skilled in the art would not have been motivated to combine the teachings of Krupa with Merzweiler to arrive at the claimed subject matter. They merely show two different examples of securing sides of a container together—not the entire invention. Applicants have designed their container to include a new securing means around the perimeter and a new way to secure the container along the center to provide support in many different directions. There is no suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify or combine the

references. They are simply that—two independent and separate teachings of a securing interface. Only through improper hindsight can one arrive at the claimed invention.

Accordingly, the container recited in claims 1, 9, and 33 would not have been attained in view of the cited references.

MPEP §2143.01 instructs that “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).” Further, the same section states: “[a]lthough a prior art device ‘may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so.’ 916 F.2d at 682, 16 USPQ2d at 1432.” Applicants respectfully submit that the references do not provide such a suggestion or motivation.

**B. The Obviousness Rejection Over Krupa and Tucker**

With respect to claims 17 and 24, the Krupa and Tucker do not disclose a molded container including, “a second perpendicular surface positioned adjacent to the transverse tension sealing surface,” as recited in the claims.

The Office Action has taken a broad interpretation of the claim terms. For example, the meaning of the terms “compression” and “tension” are given no consideration in the interpretation. Thus, compression members in Fig. 2 that are relied on in the Examiner’s rejections are not actually in compression. The same argument applies to the tension members. Applicants object to this construction.

Even if the Office Action takes this type of broad claim construction, all the features are not found in the applied references. The second perpendicular surface, as pointed out in Fig. 2 of the Office Action, is not positioned adjacent to the transverse tension sealing surface. There is

an intervening surface between the two. As such, the claimed features are not found in the applied references.

As previously argued, the applied references disclose completely different arrangements. Accordingly, none of the applied references teach or suggest each feature of claims 17 and 24.

Therefore, Applicants respectfully assert that the rejections under 35 U.S.C. §103 should be withdrawn because the applied references, either individually or in combination, do not teach or suggest each feature of independent claims 17 and 24.

As pointed out in MPEP §2143.03, “[t]o establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 409 F.2d 981, 180 USPQ 580 (CCPA 1974).”

**C. Claims 34 and 35**

The applied references do not disclose a container including “at least one of the standoffs being positioned adjacent to and between each of the first and second rows,” as recited in claim 34, or a container including a “second member being oriented adjacent to and between the first and second rows,” as recited in claim 35. The Office Action relies on Fig. 1 of Krupa to show these features.

The Office Action asserts that Fig. 1 shows “at least one standoff being positioned between said first and second row,” page 3, lines 19-21, and “the second member of the standoff being arranged between the first and second rows,” page 7, lines 4-7. But the rejection omits the feature that requires it to be “adjacent to” the first and second rows.

This feature is missing in the applied references. Fig. 1 of Krupa shows the first and second rows, as defined by the Office Action, spaced away from the support means 26. And the

support means 26 overlaps the center channel 32. Thus, no matter how Fig. 1 is defined, the applied references do not teach or suggest each feature of claims 34 and 35.

\* \* \*

For at least these reasons, it is respectfully submitted that independent claims 1, 9, 17, 24, and 33 are patentable over the applied references. The remainder of the claims that depend from independent claims 1, 9, 17, 24, and 33 are likewise patentable over the applied references for at least the reasons discussed above, as well as for the additional features they recite.

## II. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of the pending claims are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact the undersigned representative at the telephone number below.

Any fees incident to this Amendment may be charged to Deposit Account No. 08-2665.

DATED this 5<sup>th</sup> day of July, 2006.

Respectfully submitted,



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